

AMENDED IN SENATE APRIL 26, 2016

AMENDED IN SENATE APRIL 13, 2016

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 1069

Introduced by Senator Wieckowski
(Coauthor: Assembly Member Atkins)

February 16, 2016

An act to amend Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, as amended, Wieckowski. Land use: zoning.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. That law makes findings and declarations with respect to the value of 2nd units to California's housing supply.

This bill would replace the term "second unit" with "accessory dwelling unit" throughout the law. The bill would add to those findings and declarations ~~that~~ *that, among other things*, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock and these units are an essential component of housing supply in California.

The Planning and Zoning Law authorizes the ordinance for the creation of 2nd units in single-family and multifamily residential zones to include specified provisions regarding areas where accessory dwelling units may be located, standards, including the imposition of

parking standards, and lot density. Existing law, when a local agency has not adopted an ordinance governing 2nd units as so described, requires the local agency to approve or disapprove the application ministerially, as provided.

This bill would *instead* require ~~an~~ the ordinance for the creation of accessory dwelling units to include ~~specified provisions regarding areas where accessory dwelling units may be located, standards, and lot density;~~ the provisions described above. The bill would prohibit the imposition of parking standards under specified circumstances. The bill would revise requirements for the approval or disapproval of an accessory dwelling unit application when a local agency has not adopted an ordinance. The bill would also require the ministerial approval of an application for a building permit to create an accessory dwelling unit within the existing space of a single family residence or accessory structure, as specified. ~~By~~

By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65582.1 of the Government Code is
- 2 amended to read:
- 3 65582.1. The Legislature finds and declares that it has provided
- 4 reforms and incentives to facilitate and expedite the construction
- 5 of affordable housing. Those reforms and incentives can be found
- 6 in the following provisions:
- 7 (a) Housing element law (Article 10.6 (commencing with
- 8 Section 65580) of Chapter 3).
- 9 (b) Extension of statute of limitations in actions challenging the
- 10 housing element and brought in support of affordable housing
- 11 (subdivision (d) of Section 65009).
- 12 (c) Restrictions on disapproval of housing developments
- 13 (Section 65589.5).

1 (d) Priority for affordable housing in the allocation of water and
2 sewer hookups (Section 65589.7).

3 (e) Least cost zoning law (Section 65913.1).

4 (f) Density bonus law (Section 65915).

5 (g) Accessory dwelling units (Sections 65852.150 and 65852.2).

6 (h) By-right housing, in which certain multifamily housing are
7 designated a permitted use (Section 65589.4).

8 (i) No-net-loss-in zoning density law limiting downzonings and
9 density reductions (Section 65863).

10 (j) Requiring persons who sue to halt affordable housing to pay
11 attorney fees (Section 65914) or post a bond (Section 529.2 of the
12 Code of Civil Procedure).

13 (k) Reduced time for action on affordable housing applications
14 under the approval of development permits process (Article 5
15 (commencing with Section 65950) of Chapter 4.5).

16 (l) Limiting moratoriums on multifamily housing (Section
17 65858).

18 (m) Prohibiting discrimination against affordable housing
19 (Section 65008).

20 (n) California Fair Employment and Housing Act (Part 2.8
21 (commencing with Section 12900) of Division 3).

22 (o) Community redevelopment law (Part 1 (commencing with
23 Section 33000) of Division 24 of the Health and Safety Code, and
24 in particular Sections 33334.2 and 33413).

25 SEC. 2. Section 65583.1 of the Government Code is amended
26 to read:

27 65583.1. (a) The Department of Housing and Community
28 Development, in evaluating a proposed or adopted housing element
29 for substantial compliance with this article, may allow a city or
30 county to identify adequate sites, as required pursuant to Section
31 65583, by a variety of methods, including, but not limited to,
32 redesignation of property to a more intense land use category and
33 increasing the density allowed within one or more categories. The
34 department may also allow a city or county to identify sites for
35 accessory dwelling units based on the number of accessory
36 dwelling units developed in the prior housing element planning
37 period whether or not the units are permitted by right, the need for
38 these units in the community, the resources or incentives available
39 for their development, and any other relevant factors, as determined
40 by the department. Nothing in this section reduces the responsibility

1 of a city or county to identify, by income category, the total number
2 of sites for residential development as required by this article.

3 (b) Sites that contain permanent housing units located on a
4 military base undergoing closure or conversion as a result of action
5 pursuant to the Defense Authorization Amendments and Base
6 Closure and Realignment Act (Public Law 100-526), the Defense
7 Base Closure and Realignment Act of 1990 (Public Law 101-510),
8 or any subsequent act requiring the closure or conversion of a
9 military base may be identified as an adequate site if the housing
10 element demonstrates that the housing units will be available for
11 occupancy by households within the planning period of the
12 element. No sites containing housing units scheduled or planned
13 for demolition or conversion to nonresidential uses shall qualify
14 as an adequate site.

15 Any city, city and county, or county using this subdivision shall
16 address the progress in meeting this section in the reports provided
17 pursuant to paragraph (1) of subdivision (b) of Section 65400.

18 (c) (1) The Department of Housing and Community
19 Development may allow a city or county to substitute the provision
20 of units for up to 25 percent of the community's obligation to
21 identify adequate sites for any income category in its housing
22 element pursuant to paragraph (1) of subdivision (c) of Section
23 65583 where the community includes in its housing element a
24 program committing the local government to provide units in that
25 income category within the city or county that will be made
26 available through the provision of committed assistance during
27 the planning period covered by the element to low- and very low
28 income households at affordable housing costs or affordable rents,
29 as defined in Sections 50052.5 and 50053 of the Health and Safety
30 Code, and which meet the requirements of paragraph (2). Except
31 as otherwise provided in this subdivision, the community may
32 substitute one dwelling unit for one dwelling unit site in the
33 applicable income category. The program shall do all of the
34 following:

35 (A) Identify the specific, existing sources of committed
36 assistance and dedicate a specific portion of the funds from those
37 sources to the provision of housing pursuant to this subdivision.

38 (B) Indicate the number of units that will be provided to both
39 low- and very low income households and demonstrate that the

1 amount of dedicated funds is sufficient to develop the units at
2 affordable housing costs or affordable rents.

3 (C) Demonstrate that the units meet the requirements of
4 paragraph (2).

5 (2) Only units that comply with subparagraph (A), (B), or (C)
6 qualify for inclusion in the housing element program described in
7 paragraph (1), as follows:

8 (A) Units that are to be substantially rehabilitated with
9 committed assistance from the city or county and constitute a net
10 increase in the community's stock of housing affordable to low-
11 and very low income households. For purposes of this
12 subparagraph, a unit is not eligible to be "substantially
13 rehabilitated" unless all of the following requirements are met:

14 (i) At the time the unit is identified for substantial rehabilitation,
15 (I) the local government has determined that the unit is at imminent
16 risk of loss to the housing stock, (II) the local government has
17 committed to provide relocation assistance pursuant to Chapter 16
18 (commencing with Section 7260) of Division 7 of Title 1 to any
19 occupants temporarily or permanently displaced by the
20 rehabilitation or code enforcement activity, or the relocation is
21 otherwise provided prior to displacement either as a condition of
22 receivership, or provided by the property owner or the local
23 government pursuant to Article 2.5 (commencing with Section
24 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and
25 Safety Code, or as otherwise provided by local ordinance; provided
26 the assistance includes not less than the equivalent of four months'
27 rent and moving expenses and comparable replacement housing
28 consistent with the moving expenses and comparable replacement
29 housing required pursuant to Section 7260, (III) the local
30 government requires that any displaced occupants will have the
31 right to reoccupy the rehabilitated units, and (IV) the unit has been
32 found by the local government or a court to be unfit for human
33 habitation due to the existence of at least four violations of the
34 conditions listed in subdivisions (a) to (g), inclusive, of Section
35 17995.3 of the Health and Safety Code.

36 (ii) The rehabilitated unit will have long-term affordability
37 covenants and restrictions that require the unit to be available to,
38 and occupied by, persons or families of low- or very low income
39 at affordable housing costs for at least 20 years or the time period
40 required by any applicable federal or state law or regulation.

1 (iii) Prior to initial occupancy after rehabilitation, the local code
2 enforcement agency shall issue a certificate of occupancy indicating
3 compliance with all applicable state and local building code and
4 health and safety code requirements.

5 (B) Units that are located either on foreclosed property or in a
6 multifamily rental or ownership housing complex of three or more
7 units, are converted with committed assistance from the city or
8 county from nonaffordable to affordable by acquisition of the unit
9 or the purchase of affordability covenants and restrictions for the
10 unit, are not acquired by eminent domain, and constitute a net
11 increase in the community's stock of housing affordable to low-
12 and very low income households. For purposes of this
13 subparagraph, a unit is not converted by acquisition or the purchase
14 of affordability covenants unless all of the following occur:

15 (i) The unit is made available for rent at a cost affordable to
16 low- or very low income households.

17 (ii) At the time the unit is identified for acquisition, the unit is
18 not available at an affordable housing cost to either of the
19 following:

20 (I) Low-income households, if the unit will be made affordable
21 to low-income households.

22 (II) Very low income households, if the unit will be made
23 affordable to very low income households.

24 (iii) At the time the unit is identified for acquisition the unit is
25 not occupied by low- or very low income households or if the
26 acquired unit is occupied, the local government has committed to
27 provide relocation assistance prior to displacement, if any, pursuant
28 to Chapter 16 (commencing with Section 7260) of Division 7 of
29 Title 1 to any occupants displaced by the conversion, or the
30 relocation is otherwise provided prior to displacement; provided
31 the assistance includes not less than the equivalent of four months'
32 rent and moving expenses and comparable replacement housing
33 consistent with the moving expenses and comparable replacement
34 housing required pursuant to Section 7260.

35 (iv) The unit is in decent, safe, and sanitary condition at the
36 time of occupancy.

37 (v) The unit has long-term affordability covenants and
38 restrictions that require the unit to be affordable to persons of low-
39 or very low income for not less than 55 years.

1 (vi) For units located in multifamily ownership housing
2 complexes with three or more units, or on or after January 1, 2015,
3 on foreclosed properties, at least an equal number of
4 new-construction multifamily rental units affordable to lower
5 income households have been constructed in the city or county
6 within the same planning period as the number of ownership units
7 to be converted.

8 (C) Units that will be preserved at affordable housing costs to
9 persons or families of low- or very low incomes with committed
10 assistance from the city or county by acquisition of the unit or the
11 purchase of affordability covenants for the unit. For purposes of
12 this subparagraph, a unit shall not be deemed preserved unless all
13 of the following occur:

14 (i) The unit has long-term affordability covenants and
15 restrictions that require the unit to be affordable to, and reserved
16 for occupancy by, persons of the same or lower income group as
17 the current occupants for a period of at least 40 years.

18 (ii) The unit is within an “assisted housing development,” as
19 defined in paragraph (3) of subdivision (a) of Section 65863.10.

20 (iii) The city or county finds, after a public hearing, that the unit
21 is eligible, and is reasonably expected, to change from housing
22 affordable to low- and very low income households to any other
23 use during the next five years due to termination of subsidy
24 contracts, mortgage prepayment, or expiration of restrictions on
25 use.

26 (iv) The unit is in decent, safe, and sanitary condition at the
27 time of occupancy.

28 (v) At the time the unit is identified for preservation it is
29 available at affordable cost to persons or families of low- or very
30 low income.

31 (3) This subdivision does not apply to any city or county that,
32 during the current or immediately prior planning period, as defined
33 by Section 65588, has not met any of its share of the regional need
34 for affordable housing, as defined in Section 65584, for low- and
35 very low income households. A city or county shall document for
36 any housing unit that a building permit has been issued and all
37 development and permit fees have been paid or the unit is eligible
38 to be lawfully occupied.

39 (4) For purposes of this subdivision, “committed assistance”
40 means that the city or county enters into a legally enforceable

1 agreement during the period from the beginning of the projection
2 period until the end of the second year of the planning period that
3 obligates sufficient available funds to provide the assistance
4 necessary to make the identified units affordable and that requires
5 that the units be made available for occupancy within two years
6 of the execution of the agreement. “Committed assistance” does
7 not include tenant-based rental assistance.

8 (5) For purposes of this subdivision, “net increase” includes
9 only housing units provided committed assistance pursuant to
10 subparagraph (A) or (B) of paragraph (2) in the current planning
11 period, as defined in Section 65588, that were not provided
12 committed assistance in the immediately prior planning period.

13 (6) For purposes of this subdivision, “the time the unit is
14 identified” means the earliest time when any city or county agent,
15 acting on behalf of a public entity, has proposed in writing or has
16 proposed orally or in writing to the property owner, that the unit
17 be considered for substantial rehabilitation, acquisition, or
18 preservation.

19 (7) In the third year of the planning period, as defined by Section
20 65588, in the report required pursuant to Section 65400, each city
21 or county that has included in its housing element a program to
22 provide units pursuant to subparagraph (A), (B), or (C) of
23 paragraph (2) shall report in writing to the legislative body, and
24 to the department within 30 days of making its report to the
25 legislative body, on its progress in providing units pursuant to this
26 subdivision. The report shall identify the specific units for which
27 committed assistance has been provided or which have been made
28 available to low- and very low income households, and it shall
29 adequately document how each unit complies with this subdivision.
30 If, by July 1 of the third year of the planning period, the city or
31 county has not entered into an enforceable agreement of committed
32 assistance for all units specified in the programs adopted pursuant
33 to subparagraph (A), (B), or (C) of paragraph (2), the city or county
34 shall, not later than July 1 of the fourth year of the planning period,
35 adopt an amended housing element in accordance with Section
36 65585, identifying additional adequate sites pursuant to paragraph
37 (1) of subdivision (c) of Section 65583 sufficient to accommodate
38 the number of units for which committed assistance was not
39 provided. If a city or county does not amend its housing element
40 to identify adequate sites to address any shortfall, or fails to

complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(d) A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.

SEC. 3. Section 65589.4 of the Government Code is amended to read:

65589.4. (a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:

(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The attached housing development meets all of the following criteria:

(A) The attached housing development is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the attached housing development under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative declaration or mitigated negative declaration for the attached housing development may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

1 (B) The attached housing development is consistent with both
2 the jurisdiction's zoning ordinance and general plan as it existed
3 on the date the application was deemed complete, except that an
4 attached housing development shall not be deemed to be
5 inconsistent with the zoning designation for the site if that zoning
6 designation is inconsistent with the general plan only because the
7 attached housing development site has not been rezoned to conform
8 with the most recent adopted general plan.

9 (C) The attached housing development is located in an area that
10 is covered by one of the following documents that has been adopted
11 by the jurisdiction within five years of the date the application for
12 the attached housing development was deemed complete:

13 (i) A general plan.

14 (ii) A revision or update to the general plan that includes at least
15 the land use and circulation elements.

16 (iii) An applicable community plan.

17 (iv) An applicable specific plan.

18 (D) The attached housing development consists of not more
19 than 100 residential units with a minimum density of not less than
20 12 units per acre or a minimum density of not less than eight units
21 per acre if the attached housing development consists of four or
22 fewer units.

23 (E) The attached housing development is located in an urbanized
24 area as defined in Section 21071 of the Public Resources Code or
25 within a census-defined place with a population density of at least
26 5,000 persons per square mile or, if the attached housing
27 development consists of 50 or fewer units, within an incorporated
28 city with a population density of at least 2,500 persons per square
29 mile and a total population of at least 25,000 persons.

30 (F) The attached housing development is located on an infill
31 site as defined in Section 21061.0.5 of the Public Resources Code.

32 (b) At least 10 percent of the units of the attached housing
33 development shall be available at affordable housing cost to very
34 low income households, as defined in Section 50105 of the Health
35 and Safety Code, or at least 20 percent of the units of the attached
36 housing development shall be available at affordable housing cost
37 to lower income households, as defined in Section 50079.5 of the
38 Health and Safety Code, or at least 50 percent of the units of the
39 attached housing development available at affordable housing cost
40 to moderate-income households, consistent with Section 50052.5

1 of the Health and Safety Code. The developer of the attached
2 housing development shall provide sufficient legal commitments
3 to the local agency to ensure the continued availability and use of
4 the housing units for very low, low-, or moderate-income
5 households for a period of at least 30 years.

6 (c) Nothing in this section shall prohibit a local agency from
7 applying design and site review standards in existence on the date
8 the application was deemed complete.

9 (d) The provisions of this section are independent of any
10 obligation of a jurisdiction pursuant to subdivision (c) of Section
11 65583 to identify multifamily sites developable by right.

12 (e) This section does not apply to the issuance of coastal
13 development permits pursuant to the California Coastal Act
14 (Division 20 (commencing with Section 30000) of the Public
15 Resources Code).

16 (f) This section does not relieve a public agency from complying
17 with the California Environmental Quality Act (Division 13
18 (commencing with Section 21000) of the Public Resources Code)
19 or relieve an applicant or public agency from complying with the
20 Subdivision Map Act (Division 2 (commencing with Section
21 66473)).

22 (g) This section is applicable to all cities and counties, including
23 charter cities, because the Legislature finds that the lack of
24 affordable housing is of vital statewide importance, and thus a
25 matter of statewide concern.

26 (h) For purposes of this section, “attached housing development”
27 means a newly constructed or substantially rehabilitated structure
28 containing two or more dwelling units and consisting only of
29 residential units, but does not include an accessory dwelling unit,
30 as defined by paragraph (4) of subdivision (i) of Section 65852.2,
31 or the conversion of an existing structure to condominiums.

32 SEC. 4. Section 65852.150 of the Government Code is amended
33 to read:

34 65852.150. (a) The Legislature finds and declares all of the
35 following:

36 (1) Accessory dwelling units are a valuable form of housing in
37 California.

38 (2) Accessory dwelling units provide housing for family
39 members, students, the elderly, in-home health care providers, the

1 disabled, and others, at below market prices within existing
2 neighborhoods.

3 (3) Homeowners who create accessory dwelling units benefit
4 from added income, and an increased sense of security.

5 (4) Allowing accessory dwelling units in single-family or
6 multifamily residential zones provides additional rental housing
7 stock in California.

8 (5) California faces a severe housing crisis.

9 (6) The state is falling far short of meeting current and future
10 housing demand with serious consequences for the state's
11 economy, our ability to build green infill consistent with state
12 greenhouse gas reduction goals, and the well-being of our citizens,
13 particularly lower and middle-income earners.

14 (7) Accessory dwelling units offer lower cost housing to meet
15 the needs of existing and future residents within existing
16 neighborhoods, while respecting architectural character.

17 (8) Accessory dwelling units are, therefore, an essential
18 component of California's housing supply.

19 (b) It is the intent of the Legislature that an accessory dwelling
20 unit-ordinance adopted by a local agency has the effect of providing
21 for the creation of accessory dwelling units and that provisions in
22 this ordinance relating to matters including unit size, parking, fees
23 and other requirements, are not so arbitrary, excessive, or
24 burdensome so as to unreasonably restrict the ability of
25 homeowners to create accessory dwelling units in zones in which
26 they are authorized by local ordinance.

27 SEC. 5. Section 65852.2 of the Government Code is amended
28 to read:

29 65852.2. (a) (1) A local agency may, by ordinance, provide
30 for the creation of accessory dwelling units in single-family and
31 multifamily residential zones. The ordinance shall do all of the
32 following:

33 (A) Designate areas within the jurisdiction of the local agency
34 where accessory dwelling units may be permitted. The designation
35 of areas may be based on criteria, that may include, but are not
36 limited to, the adequacy of water and sewer services and the impact
37 of accessory dwelling units on traffic flow and public safety.

38 (B) Impose standards on accessory dwelling units that include,
39 but are not limited to, parking, height, setback, lot coverage,
40 architectural review, maximum size of a unit, and standards that

1 prevent adverse impacts on any real property that is listed in the
2 California Register of Historic Places. However, notwithstanding
3 subdivision (d), a local agency shall not impose parking standards
4 for an accessory dwelling unit in any of the following instances:

5 (i) The accessory dwelling unit is located within one-half mile
6 of public transit or shopping.

7 (ii) The accessory dwelling unit is located within an
8 architecturally and historically significant historic district.

9 (iii) The accessory dwelling unit is part of the existing primary
10 residence.

11 (iv) When on-street parking permits are required, but not offered
12 to the occupant of the accessory dwelling unit.

13 (v) When there is a car share vehicle located within one block
14 of the accessory dwelling unit.

15 (C) Provide that accessory dwelling units do not exceed the
16 allowable density for the lot upon which the accessory dwelling
17 unit is located, and that accessory dwelling units are a residential
18 use that is consistent with the existing general plan and zoning
19 designation for the lot.

20 (2) The ordinance shall not be considered in the application of
21 any local ordinance, policy, or program to limit residential growth.

22 (3) When a local agency receives its first application on or after
23 July 1, 2003, for a permit pursuant to this subdivision, the
24 application shall be considered ministerially without discretionary
25 review or a hearing, notwithstanding Section 65901 or 65906 or
26 any local ordinance regulating the issuance of variances or special
27 use permits, within 90 days of submittal of a complete building
28 permit application. A local agency may charge a fee to reimburse
29 it for costs that it incurs as a result of amendments to this paragraph
30 enacted during the 2001–02 Regular Session of the Legislature,
31 including the costs of adopting or amending any ordinance that
32 provides for the creation of accessory dwelling units.

33 (b) (1) When a local agency that has not adopted an ordinance
34 governing accessory dwelling units in accordance with subdivision
35 (a) receives its first application on or after July 1, 1983, for a permit
36 pursuant to this subdivision, the local agency shall accept the
37 application and approve or disapprove the application ministerially
38 without discretionary review pursuant to this subdivision unless
39 it adopts an ordinance in accordance with subdivision (a) within
40 90 days after receiving the application. Notwithstanding Section

65901 or 65906, every local agency shall ministerially approve the creation of an accessory dwelling unit if the accessory dwelling unit complies with all of the following:

(A) The unit is not intended for sale separate from the primary residence and may be rented.

(B) The lot is zoned for single-family or multifamily use.

(C) The lot contains an existing single-family dwelling.

(D) The accessory dwelling unit is either attached to the existing dwelling and located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(E) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area.

(F) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(G) Requirements relating to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located.

(H) Local building code requirements that apply to detached dwellings, as appropriate.

(I) Approval by the local health officer where a private sewage disposal system is being used, if required.

(2) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(3) This subdivision establishes the maximum standards that local agencies shall use to evaluate proposed accessory dwelling units on lots zoned for residential use that contain an existing single-family dwelling. No additional standards, other than those provided in this subdivision or subdivision (a), shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an ~~owner-occupant~~ *owner-occupant or that the property be used for rentals of terms longer than 30 days*.

~~(4) No changes in zoning ordinances or other ordinances or any changes in the general plan shall be required to implement this subdivision.~~ A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of accessory dwelling units

1 if these provisions are consistent with the limitations of this
2 subdivision.

3 (5) An accessory dwelling unit that conforms to this subdivision
4 shall not be considered to exceed the allowable density for the lot
5 upon which it is located, and shall be deemed to be a residential
6 use that is consistent with the existing general plan and zoning
7 designations for the lot. The accessory dwelling units shall not be
8 considered in the application of any local ordinance, policy, or
9 program to limit residential growth.

10 (c) A local agency may establish minimum and maximum unit
11 size requirements for both attached and detached accessory
12 dwelling units. No minimum or maximum size for an accessory
13 dwelling unit, or size based upon a percentage of the existing
14 dwelling, shall be established by ordinance for either attached or
15 detached dwellings that does not otherwise permit at least a
16 500-foot accessory dwelling unit or a 500-foot efficiency unit to
17 be constructed in compliance with local development standards.
18 Accessory dwelling units shall not be required to provide fire
19 sprinklers if they are not required for the primary residence.

20 (d) Parking requirements for accessory dwelling units shall not
21 exceed one parking space per unit or per bedroom. These spaces
22 may be provided as tandem parking on an existing driveway.
23 Off-street parking shall be permitted in setback areas in locations
24 determined by the local agency or through tandem parking, unless
25 specific findings are made that parking in setback areas or tandem
26 parking is not feasible based upon fire and life safety conditions.
27 This subdivision shall not apply to a unit that complies with
28 paragraph (1) of subdivision (b).

29 (e) Notwithstanding subdivisions (a) to (d), inclusive, a local
30 agency shall ministerially approve an application for a building
31 permit to create within a single-family residential zone one
32 accessory dwelling unit per single-family lot if the unit is contained
33 within the existing space of a single-family residence or accessory
34 structure, has independent exterior access from the existing
35 residence, and the side and rear setbacks are sufficient for fire
36 safety. Accessory dwelling units shall not be required to provide
37 fire sprinklers if they are not required for the primary residence.

38 (f) Fees charged for the construction of accessory dwelling units
39 shall be determined in accordance with Chapter 5 (commencing
40 with Section 66000). Accessory dwelling units shall not be

1 considered new residential uses for the purposes of calculating
2 private or public utility connection fees, including water and sewer
3 service.

4 (g) This section does not limit the authority of local agencies
5 to adopt less restrictive requirements for the creation of accessory
6 dwelling units.

7 (h) Local agencies shall submit a copy of the ordinances adopted
8 pursuant to subdivision (a) to the Department of Housing and
9 Community Development within 60 days after adoption.

10 (i) As used in this section, the following terms mean:

11 (1) “Living area,” means the interior habitable area of a dwelling
12 unit including basements and attics but does not include a garage
13 or any accessory structure.

14 (2) “Local agency” means a city, county, or city and county,
15 whether general law or chartered.

16 (3) For purposes of this section, “neighborhood” has the same
17 meaning as set forth in Section 65589.5.

18 (4) “Accessory dwelling unit” means an attached or a detached
19 residential dwelling unit which provides complete independent
20 living facilities for one or more persons. It shall include permanent
21 provisions for living, sleeping, eating, cooking, and sanitation on
22 the same parcel as the single-family dwelling is situated. An
23 accessory dwelling unit also includes the following:

24 (A) An efficiency unit, as defined in Section 17958.1 of Health
25 and Safety Code.

26 (B) A manufactured home, as defined in Section 18007 of the
27 Health and Safety Code.

28 (j) Nothing in this section shall be construed to supersede or in
29 any way alter or lessen the effect or application of the California
30 Coastal Act (Division 20 (commencing with Section 30000) of
31 the Public Resources Code), except that the local government shall
32 not be required to hold public hearings for coastal development
33 permit applications for second units.

34 SEC. 6. Section 66412.2 of the Government Code is amended
35 to read:

36 66412.2. This division shall not apply to the construction,
37 financing, or leasing of dwelling units pursuant to Section 65852.1
38 or accessory dwelling units pursuant to Section 65852.2, but this
39 division shall be applicable to the sale or transfer, but not leasing,
40 of those units.

1 SEC. 7. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 a local agency or school district has the authority to levy service
4 charges, fees, or assessments sufficient to pay for the program or
5 level of service mandated by this act, within the meaning of Section
6 17556 of the Government Code.

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